HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 524 OF 1999

Vishwas Krishnaji Walke. ..Petitioner.
Versus.
The Secretary,
Defence Production & Supply,
Union of India, New Delhi & Ors. ..Respondents.

Shri. R. S. Datar for the Petitioner.

Shri. V. S. Gokhale, AGP for the Respondent No.5 -State.

CORAM: S.B.MHASE &
D.G.KARNIK, JJ.

DATE : FEBRUARY 1, 2006.

P.C.

1. Heard learned counsel for the petitioner and Shri. V. S. Gokhale, learned A.G.P. for respondent No.5- State. Counsel for respondent nos. 1 to 4 & 6 are absent when called.

2. The Petitioner challenges the acquisition of his land bearing Survey No. 153 of village Bhosari, Taluka: Haveli, District: Pune. At the time of admission of this petition, a Division Bench of this Court (Coram: B.N.Srikrishna & Smt. Ranjana Desai, JJ.) has noted that the notification for acquisition did not contain enumeration of survey no. 153 in the schedule. It was also noted that if at all there was a

typographical error, the respondents would be required to take steps to issue corrigendum and mention survey No. 153. In view of this the Court ordered that possession of Survey No. 153 shall not be taken from the petitioner if the petitioner was in possession of the land when the order was passed.

3. Learned counsel for the petitioner states that the petitioner was in possession of the land survey No. 153 on the date of the filing of the petition as well as on the date of passing of the interim order on 19th June 2000. The said statement is not controverted. The fact remains that the petitioner's land bearing Survey No. 153 was not included in the notification (Exhibit-"D") for acquisition. As such the said land can not be acquired. Needless to say that this order would not prevent the respondents from initiating fresh acquisition proceedings, if it is otherwise permissible to do so in law. The Petitioner shall not be dispossessed and his land shall not be acquired save in accordance with law.

4. For these reasons, the petition is allowed and rule is made absolute in terms of prayer clause

(a). It is made clear that this order would not prevent the respondents from acquiring the land of the petitioner in future in accordance with law. The petitioner is granted liberty to take appropriate legal action for the alleged illegal demolition of his shed.

(D.G.KARNIK,J.) **(S.B.MHASE, J.)**